


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JUL 27 2005

JOHN F. CORCORAN, CLERK
BY:  DEPUTY CLERK

CHAUNCEY LAURENT WALKER,
Plaintiff,

Civil Action No. 7:05-CV-00397

v.

MEMORANDUM OPINION

HEAD DENTISTS, ET AL.,
Defendants.

By: Hon. Glen E. Conrad
United States District Judge

Plaintiff has filed a civil rights action pursuant to 42 U.S.C. § 1983 with jurisdiction vested pursuant to 28 U.S.C. § 1343. In an order dated June 23, 2005, this court directed Walker to show proof of exhaustion of administrative remedies. Walker promptly replied with a request to strike his claim for injunctive relief and proceed in reliance on McCarthy v. Madigan, 503 U.S. 140 (1992) without exhausting administrative remedies under 42 U.S.C. § 1997e(a), or in the alternative, allow Walker to withdraw his complaint. Because McCarthy was overruled by statute, Walker must exhaust administrative remedies regardless of whether his claim is for monetary damages or injunctive relief. See Booth v. Churner, 532 U.S. 731, 739-40 (2001). Therefore, the court will grant Walker's motion to withdraw his complaint in order to allow him to properly exhaust his administrative remedies. An appropriate order will be entered this day.

ENTER: This 27th day of July, 2005.


UNITED STATES DISTRICT JUDGE